

# **EXHIBIT 1**

**1-A**

1 policies or anything that's brought in question. So you  
2 would have to follow through on any type of information  
3 that's given. I don't need any person, I need the facts  
4 in the investigation. So the facts that are given to us  
5 are the facts that we follow up on and then we conclude  
6 the investigation.

7 Q. When you conclude an investigation, do you  
8 prepare a report?

9 A. We prepare a summary, yes.

10 Q. Is that the case, where all complaints of  
11 discrimination or harassment that are made to Human  
12 Resources result in a written report or summary  
13 conclusion, something like that?

14 A. Yes.

15 Q. Where are those documents kept?

16 A. It's documented on our drive, share drive.

17 Q. Is there a specific file?

18 A. It would be just "Investigations." I believe  
19 that's how it's titled.

20 Q. So in the FMC server, I guess, there is a  
21 folder called "Investigations"?

22 A. Yes.

23 Q. Within that folder, do you have a specific  
24 sub-folder or is it everybody's investigations go into  
25 the same one?

Patsy Livingston

August 21, 2009

Page 142

1           A.     Some people have sub-folders, and there's a  
2     general folder.

3           Q.     Did you prepare a conclusion or a summary  
4     report in that file related to Mr. Parejo's allegation  
5     that's raised in June of 2008?

6           A.     I don't recall if I have one specific to this  
7     letter here.

8           Q.     Why wouldn't there be one? I thought you had  
9     said the protocol was for every investigation that's  
10    conducted --

11          A.     Not every investigation. I said if there is a  
12    charge of harassment or discrimination that is founded,  
13    yes, we would document it and make sure we have a clear  
14    response to that.

15          Q.     So only if the investigation determines that  
16    there's an actual finding of harassment or  
17    discrimination is there a written report that goes into  
18    that file. Is that right?

19          A.     Yes. It's just a format to document the issue  
20    that was raised and the interviews that were conducted  
21    and a summary of what actions we took.

22          Q.     How many times have you filled out that form  
23    and put it into that folder in the server?

24          A.     Probably in like three major instances, yes.  
25    Now, we have the Ethics Point, so that's where all my

1 case are.

2 Q. What were the instances where you prepared that  
3 report and brought them to the folder because you only  
4 do that when there's a finding of racial discrimination  
5 or harassment?

6 A. I know there was one with the racial symbol,  
7 graffiti. That one.

8 Q. How about Mr. Mills?

9 A. Again, that one is outlined, documented. That  
10 one is actually in Ethics Point, but again concluded by  
11 Vicki Vargas.

12 Q. How about Mr. Grice's allegations about Ken  
13 Meredith?

14 A. We collected all the documents, but I don't  
15 know if there was a summary report. The individual was  
16 released, removed from the facility.

17 Q. It was determined that there was a violation of  
18 the harassment policy?

19 A. Yes.

20 Q. And since FMC has a zero tolerance harassment  
21 policy that dictates that an individual is supposed to  
22 be immediately removed and prosecuted to the fullest  
23 extent of the law, was Mr. Meredith immediately removed  
24 and prosecuted?

25 A. I don't know about prosecuted. That's

Patsy Livingston

August 21, 2009

Page 144

1 separate, but he was removed at FMC's request.

2 Q. Now, Mr. Meredith is no longer working at the  
3 FMC facility on Gears Road. Is that right?

4 A. That's correct.

5 Q. But he remains a contractor doing business with  
6 FMC. Is that true?

7 A. I don't know that to be true.

8 Q. Where would you find that out if you wanted to  
9 determine whether or not Mr. Meredith is a contractor  
10 still doing business with FMC?

11 A. I know he was employed by a third party. He  
12 was a third-party inspector employed by another company.

13 Q. Is it your understanding that Mr. Meredith no  
14 longer has access to the FMC workplace or workplaces?

15 A. Not to my knowledge. I'm not aware.

16 Q. Do you know whether anyone called the  
17 authorities?

18 A. In this case?

19 Q. Right.

20 A. There were no criminal charges.

21 Q. So the answer is no?

22 A. No.

23 Q. All right. Any other situations where you can  
24 recall filling out a written report and bringing it to  
25 the server and the folder identified as

1 "Investigations"?

2 A. Again, specifically? I can't recall specific  
3 ones, but I know I have.

4 Q. Are those the only times that you have prepared  
5 a written report following an investigation into an  
6 allegation of discrimination or harassment?

7 A. I know right now I probably have.

8 Let me ask you to rephrase that.

9 Q. Sure. I was asking initially whether or not  
10 the protocol of FMC when HR managers receive a complain  
11 of discrimination or harassment, whether there was a  
12 written conclusion document. You said, yes, when  
13 there's a finding of discrimination or harassment,  
14 right, and those documents are kept on a file in the  
15 server, entitled "Investigations"?

16 A. Okay.

17 Q. Stop me if I'm wrong.

18 A. Go ahead. Finish.

19 Q. I asked you to identify the written summary  
20 reports that you have prepared and concluded and placed  
21 in that folder. You identified a graffiti situation and  
22 a situation with Mr. Mills, and you couldn't recall any  
23 others.

24 A. Let's just say in my tenure at FMC, we went  
25 from a paper format, which was an outline that I was

Patsy Livingston

August 21, 2009

Page 146

1 given to follow to sum up an investigation. So that was  
2 the process in place when I started. Now the process in  
3 place is a systematic online tool that we would go in  
4 there and fill out all of the information. So all my  
5 recent cases, at least ten or however many more than  
6 that, are all documented in Ethics Point. Prior to  
7 that, it was typewritten in that format.

8 Q. Understood. With the new system in place with  
9 Ethics Point, do you only type information into the  
10 Ethics Point system if the complaint came via Ethics  
11 Point, or all complaints that come to HR?

12 A. All complaints.

13 Q. All of them are processed through Ethics Point,  
14 the system?

15 A. Yes.

16 Q. Regardless of whether the finding is that there  
17 was discrimination, harassment, or not?

18 A. Correct.

19 Q. All right. So did you conclude whether there  
20 was discrimination or harassment with respect to  
21 Mr. Parejo's allegation that's raised on June 16, 2008?

22 A. With Mr. Parejo, it's been sort of a continuous  
23 process with him. So this is not the first letter that  
24 he's written to look into his allegation of being denied  
25 specifically welding positions. He's brought it up



1 several times, and we have concluded as of late last  
2 year that he has not been denied the opportunity to  
3 test, to apply for the position. So was there a charge  
4 of discrimination based on that? No.

5 Q. Did you document your findings in any fashion?  
6 Did you take any notes, handwritten, typed, anything  
7 with respect to Mr. Parejo's allegation of  
8 discrimination?

9 A. Taken notes in the process and documented his  
10 allegation, yes.

11 Q. Where do you keep those notes?

12 A. Again, it's going to be varied depending on  
13 when we did this. So the handwritten and typed or in  
14 the system right now regarding Mr. Parejo.

15 Q. Did you turn over all of those documents to  
16 counsel, handwritten notes and --

17 A. Everything I had.

18 (Exhibit 196 marked)

19 Q. (BY MR. BOXER) I've marked as Exhibit 196 a  
20 letter to FMC HR Department, Patsy Livingston, from  
21 Mr. Grice, June 25th, 2008. Ms. Livingston, do you  
22 recall receiving a letter from Mr. Grice on or about  
23 June 25, 2008, that we've marked as Exhibit No. 196?

24 A. Yes.

25 Q. This is the situation we discussed briefly

Patsy Livingston

August 21, 2009

Page 148

1 wherein Mr. Grice was complaining about Ken Meredith.

2 A. Yes.

3 Q. Let me read a couple of passage here. It says:  
4 "On Monday, June 23, 2008, I, Lawrence Grice, along with  
5 Stephen Matula and David Dempsey were present to witness  
6 the following commends made by third-party inspector  
7 Ken Meredith."

8 First, let me ask. What was Mr. Matula's  
9 position in June of 2008?

10 A. I'm not certain. I believe Mr. Matula is a  
11 lead.

12 Q. Are leads supposed to immediately report acts  
13 of discrimination or harassment up the chain of command?

14 A. All employees are supposed to do that.

15 Q. Are they supposed do it to their immediate  
16 manager, to HR, to both, Ethics Point, to whom?

17 A. As quickly as possible to a member of FMC  
18 management. It doesn't have to be their line of  
19 management.

20 Q. Here's the quote. It says: "All these illegal  
21 Mexicans want when they come into this country is a  
22 white woman, a hot dog, apple pie, and a Chevrolet." Do  
23 you see that?

24 A. Yes.

25 Q. Do you believe that comment violated FMC's

1 policy regarding harassment?

2 A. Yes, it would be.

3 Q. If Mr. Matula was present when that comment  
4 would be made, he would have an obligation as a lead to  
5 report that to his manager or Human Resources  
6 immediately, right?

7 A. Any employee. Again, yes.

8 Q. Mr. Matula included?

9 A. That's correct.

10 Q. Do leads have a special obligation?

11 A. I wouldn't say special, but they're leading  
12 tasks, they're working with a team. They should report  
13 the incident if they have knowledge of it.

14 Q. It looks like then two days later, on  
15 Wednesday, June 25, 2008, there were some more comments  
16 made. Let me ask you. Do you know whether Mr. Matula  
17 reported Ken Meredith's comments about illegal Mexicans  
18 to anyone between June 23rd and June 25th?

19 A. No, I don't know.

20 Q. It says: On June 25th, I, Lawrence Grice, was  
21 working, using a sling to move pallets across the floor.  
22 Ken Meredith shouted, "Yah, mule, yah; pull, mule,  
23 pull." Then it continued. Later on it says: "I told  
24 Ken, 'God made me a man and not a mule.' Ken replied:  
25 'You are a mule.'"

**1-B**

1 Q. For each of the 30 to 40 investigations that  
2 you conducted regarding racial issues, did you draft  
3 an investigative report?

4 A. Yes.

10:33 5 Q. Why is it important to draft an investigative  
6 report?

7 A. We did not always draft an investigative  
8 report. And we took notes on some of them, and some  
9 of them, we created an investigative report to  
10:34 10 document our notes and form a conclusion.

11 Q. For the 30 to 40 about race, you did an  
12 investigative report, is that right, or did that  
13 change at some point?

14 A. We did not do an investigative report for  
10:34 15 each one of those.

16 Q. Okay. When did that change?

17 A. I do not know that it changed. I do believe  
18 there was a point where we became more formal in our  
19 investigative summaries. That was probably -- I do  
10:35 20 not know.

21 Q. Can you give me a rough estimate? Was it  
22 yesterday or was it a couple years ago?

23 A. It was a few years ago.

24 Q. Okay. Sometime in 2006, perhaps, 2007?

10:35 25 A. I believe it was earlier than that, but I

1 don't -- I couldn't tell you how much earlier than  
2 that.

3 Q. How did that change come about?

4 A. I do not know why that change came about.

10:35 5 Q. Did one of your superiors say, Hey, we really  
6 need to formalize these things?

7 A. No.

8 Q. How else?

9 A. We had a co-worker start working with us,  
10:35 10 another generalist who had worked in another company  
11 where they had formats of investigative notes that we  
12 adopted.

13 Q. Who was that co-worker?

14 A. Robert Empie.

10:36 15 Q. Can you spell that last name?

16 A. E-M-P-I-E.

17 Q. Mr. Empie said in sum or substance, This is  
18 the format we used to use at my other company. What  
19 do you think? And FMC adopted that format, roughly?

10:36 20 A. It wasn't FMC adopted. Our department  
21 adopted using that format, yes.

22 Q. Okay. Of the 30 to 40 investigations you  
23 have conducted into racial issues, how many times did  
24 you determine that the conduct complained of violated  
10:36 25 FMC's policies about discrimination, harassment or